UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HOOTERS OF TROY, INC.

                        Plaintiff,

                                                        Case number 06-14945
v.   Honorable Julian Abele Cook, Jr.

CITY OF TROY,

                        Defendant.

ORDER

On November 2, 2006, the Plaintiff, Hooters of Troy, Inc. ("Hooters"), filed a Complaint,

in which it accused the Defendant, the City of Troy ("City"), of violating its fundamental

constitutional rights under 42 U.S.C. § 1983.[1] On November 22, 2006, the City filed a motion in

which it contended that this case should be dismissed because Hooters had failed to state a claim

for which relief could be granted. Fed.R.Civ.P. 12(b)(6). As an alternative measure, the City also

advanced the argument that this Court should abstain from rendering a decision on the merits of

this cause, citing the doctrine of claim preclusion as well as the text relating to the application of

judicial abstention, as found in *Younger v Harris*, 401 U.S. 37 (1971).

For the reasons that were set forth on the record during the hearing on February 28, 2007,

the Court will (1) deny the City's request for the entry of an order of dismissal, (2) abstain from

evaluating the merits of this case because of the applicability of the claim preclusion and

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[1]

In its Complaint, Hooters maintains that the City wrongfully infringed upon its rights to due process, an unimpeded freedom of expression, and an equal protection under the law, all in violation of 42 U.S.C. § 1983.

1

"Younger" doctrines, and (3) stay the prosecution of this case during the pendency of the state court

proceeding.

IT IS SO ORDERED.

Dated: <u>March 7, 2007</u>   <u>s/ Julian Abele Cook, Jr.</u>
       Detroit, Michigan   JULIAN ABELE COOK, JR.
                                      United States District Court Judge

<u>Certificate of Service</u>

I hereby certify that on March 7, 2007, I electronically filed the foregoing with the Clerk of the Court using the ECF system, and I further certify that I mailed a copy to the non-ECF participant(s).

<u>s/ Kay Alford</u>
Courtroom Deputy Clerk

2